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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
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10/576,414

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EXAMINER

AUGHENBAUGH, WALTER

ART UNIT

PAPER NUMBER

1782

NOTIFICATION DATE

DELIVERY MODE

11/07/2011

ELECTRONIC

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Notice of the Office communication was sent electronically on above-indicated "Notification Date" to the following e-mail address(es):

patentmail@whda.com

<p align="center">Advisory Action Before the Filing of an Appeal Brief</p>	Application No. 10/576,414	Applicant(s) WATANABE ET AL.	
	Examiner WALTER B. AUGHENBAUGH	Art Unit 1782	

--The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

THE REPLY FILED 01 November 2011 FAILS TO PLACE THIS APPLICATION IN CONDITION FOR ALLOWANCE.

1. ☒ The reply was filed after a final rejection, but prior to or on the same day as filing a Notice of Appeal. To avoid abandonment of this application, applicant must timely file one of the following replies: (1) an amendment, affidavit, or other evidence, which places the application in condition for allowance; (2) a Notice of Appeal (with appeal fee) in compliance with 37 CFR 41.31; or (3) a Request for Continued Examination (RCE) in compliance with 37 CFR 1.114. The reply must be filed within one of the following time periods:

- a) ☒ The period for reply expires 3 months from the mailing date of the final rejection.
b) ☐ The period for reply expires on: (1) the mailing date of this Advisory Action, or (2) the date set forth in the final rejection, whichever is later. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of the final rejection.

Examiner Note: If box 1 is checked, check either box (a) or (b). ONLY CHECK BOX (b) WHEN THE FIRST REPLY WAS FILED WITHIN TWO MONTHS OF THE FINAL REJECTION. See MPEP 706.07(f).

Extensions of time may be obtained under 37 CFR 1.136(a). The date on which the petition under 37 CFR 1.136(a) and the appropriate extension fee have been filed is the date for purposes of determining the period of extension and the corresponding amount of the fee. The appropriate extension fee under 37 CFR 1.17(a) is calculated from: (1) the expiration date of the shortened statutory period for reply originally set in the final Office action; or (2) as set forth in (b) above, if checked. Any reply received by the Office later than three months after the mailing date of the final rejection, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

NOTICE OF APPEAL

2. ☐ The Notice of Appeal was filed on _____. A brief in compliance with 37 CFR 41.37 must be filed within two months of the date of filing the Notice of Appeal (37 CFR 41.37(a)), or any extension thereof (37 CFR 41.37(e)), to avoid dismissal of the appeal. Since a Notice of Appeal has been filed, any reply must be filed within the time period set forth in 37 CFR 41.37(a).

AMENDMENTS

3. ☒ The proposed amendment(s) filed after a final rejection, but prior to the date of filing a brief, will not be entered because
(a) ☒ They raise new issues that would require further consideration and/or search (see NOTE below);
(b) ☒ They raise the issue of new matter (see NOTE below);
(c) ☒ They are not deemed to place the application in better form for appeal by materially reducing or simplifying the issues for appeal; and/or
(d) ☐ They present additional claims without canceling a corresponding number of finally rejected claims.

NOTE: See Continuation Sheet. (See 37 CFR 1.116 and 41.33(a)).

4. ☐ The amendments are not in compliance with 37 CFR 1.121. See attached Notice of Non-Compliant Amendment (PTOL-324).
5. ☐ Applicant's reply has overcome the following rejection(s): _____.
6. ☐ Newly proposed or amended claim(s) _____ would be allowable if submitted in a separate, timely filed amendment canceling the non-allowable claim(s).
7. ☒ For purposes of appeal, the proposed amendment(s): a) ☒ will not be entered, or b) ☐ will be entered and an explanation of how the new or amended claims would be rejected is provided below or appended.
The status of the claim(s) is (or will be) as follows:
Claim(s) allowed: _____.
Claim(s) objected to: _____.
Claim(s) rejected: 1 and 2.
Claim(s) withdrawn from consideration: _____.

AFFIDAVIT OR OTHER EVIDENCE

8. ☐ The affidavit or other evidence filed after a final action, but before or on the date of filing a Notice of Appeal will not be entered because applicant failed to provide a showing of good and sufficient reasons why the affidavit or other evidence is necessary and was not earlier presented. See 37 CFR 1.116(e).
9. ☐ The affidavit or other evidence filed after the date of filing a Notice of Appeal, but prior to the date of filing a brief, will not be entered because the affidavit or other evidence failed to overcome all rejections under appeal and/or appellant fails to provide a showing of a good and sufficient reasons why it is necessary and was not earlier presented. See 37 CFR 41.33(d)(1).
10. ☐ The affidavit or other evidence is entered. An explanation of the status of the claims after entry is below or attached.

REQUEST FOR RECONSIDERATION/OTHER

11. ☒ The request for reconsideration has been considered but does NOT place the application in condition for allowance because:
See Continuation Sheet.
12. ☐ Note the attached Information *Disclosure Statement*(s). (PTO/SB/08) Paper No(s). _____.
13. ☐ Other: _____.

/WALTER B AUGHENBAUGH/
Primary Examiner, Art Unit 1782

Continuation of 3. NOTE: Applicant's deletion of "total" in line 12 of claim 1 raises new issues that require further consideration and/or search because deletion of "total" opens up the length of Z to any "length along the central axis of the multilayered molten resin mass" (Z is no longer restricted to the "total length" of the multilayered molten resin mass along its central axis). Applicant arguments appear to confirm this because Applicant argues that y in Collette et al. and Kuwabara et al. "is greater than Z" on page 5 of the After-Final Amendment: for y to be greater than Z in Collette et al. and Kuwabara et al., Applicant must consider Z to be something other than Z as it is defined in Fig. 1 of Applicant's specification.

Applicant's deletion of "total" in line 12 of claim 1 adds new matter to claim 1 since the specification appears to provide support for only the definition of Z where Z is the total length of the multilayered molten resin mass along its central axis. See, for example, Fig. 1, which clearly shows what Z is considered to be. Applicant's deletion of "total" opens up the length of Z to any "length along the central axis of the multilayered molten resin mass", but the only length that is supported in the specification as originally filed is the total length of the multilayered molten resin mass along its central axis.

Continuation of 11. does NOT place the application in condition for allowance because:

Examiner repeats the statement made in the previous Office Action mailed August 12, 2011 that: "[b]efore the preform solidifies into a preform, it is a molten resin mass in the shape of a preform (having components having the claimed structural features). Examiner further notes that Applicant has not disputed this statement in the After Final Amendment.

Examiner notes that Applicant has not disputed the 35 USC 102 rejection of claim 1 as being anticipated by Shimizu et al. (USPN 4,816,308) in the After-Final Amendment under the "Rejections under 35 USC 102(b)" heading.

Applicant argues that y in Collette et al. and Kuwabara et al. "is greater than Z" on page 5 of the After-Final Amendment.

Examiner notes that Applicant has made this argument without providing any support or explanation for why Applicant alleges that "y is greater than Z" in Collette et al. and Kuwabara et al.

Z (as it is defined in Applicant's specification, for example, in Fig. 1) is greater than y (as it is defined in Applicant's specification, for example, in Fig. 1) in Collette et al. and Kuwabara et al. As stated in the respective rejections of record, "Compare Fig. 4 and 5 of Collette et al. with Applicant's Fig. 1. Note that the second resin does not extend to the top of the resin mass shown in Fig. 4 and 5 of Collette et al." (page 6 of Office Action mailed August 12, 2011), and "Compare figures of Kuwabara et al. with Applicant's Fig. 1 (note the top of interlayer of Kuwabara et al. on either side is curved)." (page 7 of Office Action mailed August 12, 2011). Examiner repeats: Note that the second resin shown in Fig. 4 and 5 of Collette et al. does not extend to the top of the resin mass shown in Fig. 4 and 5 of Collette et al. Page 6 of Office Action mailed August 12, 2011.

Examiner also notes that Applicant states on page 5 of the After Final Amendment that "[t]he preforms disclosed in Collette et al., and Kuwabara et al. are of concave shape", but it is unclear how this rebuts the rejection of record of the claims of record. The claims do not require that the resin mass is not of concave shape (by arguing that the preforms in Collette et al. and Kuwabara et al. are of concave shape, it would seem that Applicant intends to imply that the claims require that the resin mass is not of concave shape, but the claims do not require this). If Applicant intends to imply something other than this, it is not clear what Applicant intends to argue, because Applicant has not explained how the fact that the preforms are of concave shape overcomes the rejections of record.

Examiner once again notes that Applicant has not presented any argument in response to the 35 USC 102 rejection of claim 1 as being anticipated by Shimizu et al. (USPN 4,816,308) in the After-Final Amendment under the "Rejections under 35 USC 102(b)" heading.

Applicant argues under the "Rejections under 35 USC 103(a)" heading that Shimizu et al. do not teach or suggest that $Z > y > L$, but this is only possible if Applicant considers Z to be something other than Z as it is shown in Fig. 1 of Applicant's specification.

Z (as it is defined in Applicant's specification, for example, in Fig. 1) is greater than y (as it is defined in Applicant's specification, for example, in Fig. 1) in Shimizu et al. As stated in the respective rejections of record, "Compare Fig. 3 of Shimizu et al. with Applicant's Fig. 1." Page 6 of Office Action mailed August 12, 2011.

As above in regard to the 35 USC 102 rejections as being anticipated by Collette et al. and Kuwabara et al., Examiner notes that Applicant has made the argument that y is greater than Z in Shimizu et al. without providing any support or explanation for why Applicant alleges that "y is greater than Z" in Shimizu et al.